




Valuation Appeals To The Tax Equalization And Review Commission



VALUATION APPEALS TO THE TAX EQUALIZATION AND REVIEW COMMISSION

Most appeals to the Tax Equalization and Review Commission concern value of real property. Questions in a valuation appeal may be actual value, taxable value, special value, recapture value, or whether taxable value is equalized with the taxable value of comparable property, on January 1 of each year.

Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and a willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. In analyzing the uses and restrictions applicable to real property, the analysis shall include a consideration of the full description of the physical characteristics of the real property and an identification of the property rights being valued.

Taxable value is often referred to as assessed value. As the term implies it is the value subject to tax.

Taxable value of all real property except agricultural land and horticultural land is 100% of its actual value.

Taxable value of agricultural land and horticultural land is 80% of its actu-

al value (market value) if special valuation (greenbelt) is not used to determine taxable value.

Special value is the value qualified agricultural land and horticultural land has solely for agricultural and horticultural purposes or uses. Special value does not apply to buildings or to land with buildings on it. Recapture value is the land's actual value (market value). Taxable values for agricultural land and horticultural land valued using special valuation (greenbelt) are 80% of special value and 80% of recapture value.

Actual or special value, if applicable, must always be proved so that the Commission can determine taxable value of agricultural land and horticultural land.

Actual value may be determined using the sales comparison approach, the income approach or the cost approach. When the sales comparison approach is used, sales of comparable properties are analyzed to establish actual value or special value. Determining actual or special value using the income approach or the cost approach may also require information from comparable properties.

Comparable parcels of real property share similar uses, physical characteristics, location and improvements if any. Improvements are comparable if they share similar quality of construction, physical condition, style, age, size, amenities, and functional utility.

Whether or not the taxable value of property is equalized with the taxable value of other comparable property can

be determined by comparing the ratio of taxable value to actual value for a property to that same ratio for other comparable properties.

The questions and answers that follow apply generally to valuation appeals without consideration of whether the question in an appeal is actual value, taxable value, special value, recapture value, equalization of taxable value, or the valuation approach used.

Who can appeal?

- An owner or one of several owners, of property, an officer, director, manager, partner or full time employee of an entity owning property, are examples of persons who may appeal a valuation decision. More examples are listed in Chapter 5 of the Commission's rules and regulations.
- Appeals may also be made by any taxpayer in a county who believes the County Board of Equalization has lowered the value of a parcel owned by someone else to a level that is less than its actual value.
- Legal counsel may appeal.

What information do I file?

- (1) An Appeal Form must be filed for **each parcel** of real property even though the protest to the County Board of Equalization may have covered more than one parcel. An Appeal Form can be obtained from the County Clerk or the Commission.

- (2) A copy of the decision of the County Board of Equalization or other information that documents the County Board of Equalization's decision for each parcel must be attached to an Appeal Form. A copy of a notice or report of the County Board of Equalization's decision can be obtained from the County Clerk.
- **An appeal filed without required documentation will be dismissed.**

How much does it cost?

- The filing fee for each appeal is \$25.00.
- The filing fee can be paid in cash only if delivered personally.
- Checks should be made payable to the Tax Equalization and Review Commission.
- **If the filing fee is not paid by the filing deadline, an appeal will be dismissed.**

How and where do I file?

- An Appeal Form with required documentation and the filing fee, can be filed by mail. The Commission's mailing address is: Tax Equalization and Review Commission, PO Box 94732, Lincoln, NE. 68509-4732.
- An Appeal Form with required documentation and the filing fee can also be delivered to the Commission at its office in the State Office Building in the Southeast corner of the ground floor by 5:00 P.M. each business day. The State Office

Building is located at 301 Centennial Mall South, one block north of the Capitol building, in Lincoln between L & M Streets on 14th Street.

- **The Commission will not accept photocopies of its appeal form.**
- **The Commission does not accept faxed appeals.**

When do I file?

- If you received a notice of valuation change and were required to file a protest on or before June 30, then an appeal from a decision on the protest must be filed on or after July 26 and on or before August 24, unless the protest hearing deadline has been extended. The protest hearing deadline can be extended by the County Board of Equalization in a County having a population of more than 100,000 as of the last federal decennial census. If the protest hearing deadline has been extended, an appeal from a decision on the protest must be filed on or after August 11 and on or before September 10. Review sections 77-1502 and 77-1510 and County Board of Equalization actions.
- If a County Board of Equalization made an initial determination that property was undervalued or over-valued, it proposed a value and sent notice of that value, an appeal of a Board's decision on a protest of that value must be filed on or after September 16 and on or before October 15 unless the protest hearing deadline has been extended.

The protest hearing deadline can be extended by the County Board of Equalization in a County having a population of more than 100,000 as of the last federal decennial census. If the deadline for hearing protests has been extended an appeal from a decision on the protest must be filed on or after October 1 and on or before October 30. Review Section 77-1504 and County Board of Equalization actions.

- Other decisions of a County Board of Equalization concerning taxable value of real property must be appealed within 30 days of the boards decision.
- **It is your responsibility to determine which filing deadline applies.**

NEBRASKA STATUTES MAY BE FOUND AT:

www.unicam.state.ne.us or the County Clerk's office.

- If the filing deadline is on a weekend or holiday, the next business day becomes the filing deadline.
- When an Appeal Form is mailed, and is received after the filing deadline, the envelope must be legibly postmarked by the US Postal Service on or before the filing deadline. Private or Commercial carrier posting dates will not be considered. If the postmark is not legible, the commission may receive evidence to establish timely mailing.

- Delivery of an Appeal Form in person or by delivery service must be made before 5:00 P.M. the day of the filing deadline.

When will my appeal be heard?

- Because the Commission receives hundreds of appeals in August each year, most appeals are heard in the year after they are filed.
- Hearings can be continued if all parties agree or if there are special circumstances.
- Contact the Commission at (402) 471-2842 as soon as possible prior to a scheduled hearing if something unexpected happens that will prevent you from attending the hearing.

Where will my appeal be heard?

- The Commission holds most of its hearings on the sixth floor of the State Office Building at 301 Centennial Mall South in Lincoln Nebraska. Parking can be a problem. The Commission can furnish maps showing public parking.
- The Commission does travel to other Nebraska locations. Hearings have been held in Norfolk, Kearney, Ogallala, Scottsbluff, North Platte, Chadron, and other locations.

How do I find out when and where my appeal will be heard?

- The Commission will issue an order setting the date, time and location for hearing your appeal 60 to 90

days prior to the hearing date. The Commission will mail you a copy of its order for hearing and notice of hearing.

Who will hear my appeal?

- The Commission consists of four members. At least two members of the Commission hear each appeal. Often all four are present. The Commissioners who will hear your appeal will be named in the order for hearing. Information concerning each Commissioner may be found on the Commission's web page. In rare instances a lawyer appointed as a special master will preside at a hearing. A special master cannot decide an appeal. He or she can only make recommendations to the Commissioners.

Do I need a lawyer?

- You may have a lawyer but a lawyer is not required.
- An owner or one of several owners of property, or an officer, director, manager, partner, or full time employee of an entity owning property are examples of persons who may present evidence and question witnesses. More examples are listed in Chapter 4 of the Commission's rules and regulations.
- Persons who are not authorized to practice law in Nebraska will not be allowed to present evidence or question witnesses on behalf of another person.

- Frequently the County Board of Equalization has an attorney at the hearing.

Do I have to attend the hearing?

- At least one person who is an owner or one of the owners of property or an officer, director, manager, partner, trustee, or a full time employee of an entity owning property described in the appeal are examples of persons who must appear at the hearing. Other examples are contained in Chapter 4 of the Commission's rules and regulations.
- Failure to attend the hearing will result in a decision in favor of the opposing party.

How can I prepare for a hearing?

- Organize evidence to prove actual value, special value, or equalized taxable value as of January 1. Evidence is anything that tends to prove a fact. Evidence can be in the form of testimony of a witness, documents, photographs, etc.
- Identify the person(s) you want to appear as witnesses. You can be a witness. You can call the County Assessor or a representative of that office as a witness if he or she is at the hearing. You can compel the attendance of a witness with a subpoena. If you want to subpoena a witness, file a request with the Commission after reading the applicable rules.

- If you want to use an appraisal as evidence at your hearing, remember that the valuation date is January 1 of each year and the appraisal has to tell the Commission something about actual value or special value on that date. An appraisal with an effective date of January 1 of the tax year in dispute is desirable. Appraisals with a valuation date other than January 1 of the year in dispute will only be considered to the extent some connection can be shown between the value determined as of the effective date of the appraisal and January 1 of the tax year in dispute. Generally the appraiser must be present to testify concerning his or her appraisal for it to be considered. If the appraiser is not present and there is an objection to use of the appraisal, the appraisal will not be considered.
- Find or prepare documents that support your position. You may want information about property you believe is comparable. If you plan to present information about comparable property, you must present a copy of the County Assessor's property record file for each parcel you believe is comparable. Make sure the records you obtain are for January 1 of the tax year in dispute. You may be charged a copying fee. Some counties have web pages with property information. Web page information may not be all the information the Commission needs to determine

whether properties are comparable. Use web page information to identify parcels of real property you want complete property record files for and then obtain copies of those files from the Assessor.

- Each appeal is different and there may be other types of evidence you will want to present.
- The order for hearing will give instructions for copying and delivery of documents, photographs etc. (Exhibits) you want the Commission to consider and disclosure of information concerning expert witnesses such as an appraiser. Instructions in the order have to be followed.
- All material received will be given exhibit numbers by the Commission and identified on an exhibit list prepared by the Commission.
- Objections to use of an exhibit can be made at the hearing. The presiding hearing officer will make a ruling on use of exhibits at the hearing.
- Materials the Commission may use as a part of its consideration of your appeal, in addition to evidence presented at the hearing, is in Chapter 5 of the Commission's rules and regulations.

What is a hearing like?

- Hearings are usually informal, but they are structured, and there are procedures and rules to be followed. A brochure titled "What to

Expect at Your Valuation Hearing” is mailed to everyone with the Order and Notice of Hearing. That brochure is also on the Commission’s web site www.terc.ne.gov. The brochure will be mailed to you on request and is available in many County Assessors’ offices.

- If you would like to attend a hearing, contact the Commission for dates, times, and places of hearings.

When will I get a decision?

- A decision may be made the day of the hearing or it may be delayed for several days while the Commission reviews the evidence and reaches a decision. A copy of the decision will be mailed to you.

What if I disagree with the Commission’s decision?

- An appeal from a decision of the Commission must be filed with the Nebraska Court of Appeals, as provided in Section 77-5019 of Nebraska Statutes, within 30 days after the date of the Commission’s decision.

Do I have to have a hearing?

- Some appeals are settled. If you and the County can agree on a resolution of your appeal, the Commission can enter an order implementing the agreement if it is lawful. Value cannot be changed

without a Commission order.

- The Commission can appoint a referee if both you and the County request one. The referee could help you and the County agree on facts and issues prior to the hearing. An agreement on facts and issues might be the basis for a resolution of your appeal. If you would like to use a referee, make a request to the Commission. Funding is limited for appointment of referees.

The County offered to settle and I refused what happens?

- An offer of settlement is not evidence and won't be considered by the Commission.
- Failure to obtain relief, from the Commission, greater than the County's offer of settlement will result in a requirement that you pay the County's fees and costs incurred after the offer was made. Review Nebraska Statute section 77-1510.01.

What happens to my taxes if I win?

- In many Appeals a final decision is not made until one-half or sometimes all of the taxes levied on the disputed value have been paid. If taxes have been paid, the County Treasurer will refund the difference between taxes on the disputed value and taxes on any lower value determined on appeal.

What about the year after my protest and appeal?

- **A Commission decision will only be applicable to the year for which the appeal was filed.**
- If you want to change taxable value of a parcel for the year after you filed an appeal, you must file another protest before that deadline.

What if I need to know more?

- The Commission's rules and regulations can be mailed to you for \$10.00 or found at
(1) **www.terc.ne.gov**.
(2) the Secretary of State's web page **www.sos.state.ne.us** under the rules and regulations subtab of the business tab,
(3) or the State of Nebraska's web page **www.nebraska.gov** under the rules and regulations search subtab, of the "Your Government" tab.
- Nebraska Statutes may be found at **www.unicam.state.ne.us**. under the "Laws of Nebraska" subtab.
- The Commission's telephone number is (402) 471-2842. The Commission does not have a toll-free number.
- You may find useful information on the Property Tax Administrator's web page **pat.nol.org**.

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301 Centennial Mall South
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